



STATE OF WASHINGTON  
PUBLIC DISCLOSURE COMMISSION

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WASHINGTON BREATHE  
ALLIANCE

Respondents.

PDC CASE NO: 04-446

ADDENDUM TO REPORT  
OF INVESTIGATION

I.

FINDINGS

**"Educational" Advertisements Sponsored  
by American Cancer Society**

- 1.1 Staff reviewed documentation submitted on April 22, 2004 by David Delvallee, Advocacy Director for the Northwest Division of the American Cancer Society, regarding television advertisements sponsored by ACS with restricted Robert Wood Johnson Foundation grant funds, and unrestricted funds contributed by BREATHE member organizations. **(See exhibit 10, pp 4 – 8, Report of Investigation)** Staff's review indicated that one television advertisement, titled "It's your right" and classified by Mr. Delvallee as "educational" rather than "grassroots," contained the following statements:

*"There is a historic opportunity in Washington to eliminate secondhand smoke from all indoor public places...We protect office workers from toxic smoke...Why not protect all workers. Everyone has the right to breathe clean indoor air...Smokefree. It's your right."*

According to a breakdown provided by Mr. Delvallee, the "It's your right" advertisement ran 11 times in January and 26 times in February, 2004. At

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*"The public's right to know of the financing of political campaigns and lobbying and the financial affairs of elected officials and candidates far outweighs any right that these matters remain secret and private."*

RCW 42.17.010 (10)



\$225 per airing, the breakdown stated that expenditures for this advertisement totaled \$8,325. Of this amount, \$2,475 was incurred in January of 2004, and \$5,850 in February of 2004. According to a June 3, 2004 interview with Mr. Delvallee, this advertisement was sponsored by the American Cancer Society with restricted Robert Wood Johnson Foundation grant funds, and was not included in the \$40,275 in television expenditures disclosed by ACS on its April 22, 2004 L-6 Grass Roots Lobbying report.

**Sponsorship of Grove Insight Poll  
by American Cancer Society**

- 1.2 Staff reviewed the results of a public opinion survey conducted by the polling firm Grove Insight, and a BREATHE press release dated December 15, 2003 (**See exhibits 5 and 6, Report of Investigation**). Staff's review of the poll results indicates that they were dated February 22, 2003, over nine months before the date of the BREATHE press release. Staff's review of the press release indicates that it briefly referred to the poll results, in a segment describing voter support for smoking bans and general sentiment regarding secondhand smoke. In correspondence dated August 10, 2004, Kevin Knox, BREATHE project director for the American Cancer Society, stated that the total cost to ACS for the poll was \$12,200.

In his August 10, 2004 letter, Mr. Knox stated that most of the poll was not used publicly. In the June 3, 2004 interview with David Delvallee, Mr. Delvallee stated that primary public use of the poll results was the December 15, 2003 press release. On July 30, 2004, J. Michael O'Sullivan, registered lobbyist for the American Cancer Society, stated that he believed he had been aware during the 2003 legislative session that Grove Insight had conducted a poll on voter support for anti-tobacco proposals, but he did not have specific recollection of making this poll a part of his lobbying efforts on behalf of the American Cancer Society. In addition, he stated that he was unaware during that time whether the poll had been sponsored by the American Cancer Society, and said that he had not received any details concerning sponsorship of the poll from Kevin Knox, who normally oversaw such expenditures.

The expense for the poll was not disclosed in L-6 Grass Roots Lobbying reports or L-2 Lobbyist Expense reports filed by the American Cancer Society or its lobbyist. Although the December 15, 2003 press release did appear to be the first activity bearing the name BREATHE, there was no

evidence that the poll mentioned briefly in the release was designed or used as a grass roots lobbying expenditure.

- 1.3 Upon review, staff does not consider the date of December 13, 2004 as the starting date for the grass roots or other lobbying reporting requirement of BREATHE member organizations; rather, staff considers the requirement to begin with the first reportable expenditure incurred directly by each member organization.

**Alleged Grass Roots Lobbying Expenditures  
by American Cancer Society**

- 1.4 The American Cancer Society incurred \$71,399 in expenses for grass roots lobbying television advertisements and other grassroots lobbying from January 12, 2004, the start of the 2004 legislative session, through March 31, 2004. This figure includes \$8,325 of the Robert Wood Johnson Foundation grant that was used for the "It's your right" television advertisement that appears to have constituted reportable grassroots lobbying. (See 1.1, above.)

ACS was required to file a form L-6 by February 12, 2004, disclosing \$22,124 in grassroots lobbying expenses incurred during January of 2004 for television advertisements and other grassroots lobbying. \$19,649 of this amount was disclosed 70 days late, on an L-6 report filed on April 22, 2004; the remaining \$2,475, which paid for advertisements broadcast during January that were not seen as grassroots lobbying by ASC staff, was disclosed in a letter submitted on April 22, 2004.

\$42,071 in grassroots lobbying expenses incurred during February of 2004 were required to be disclosed by ACS on an L-6 form by March 10, 2004. \$36,221 of this amount was reported 43 days late, on the L-6 filed on April 22, 2004; the remaining \$5,850, for ads not seen by ACS as grassroots lobbying, was disclosed in a letter to staff on April 22, 2004.

ACS was required to disclose a total of \$30,000 in monetary contributions from the American Heart Association and American Lung Association of Washington on the L-6 due March 10, 2004. These contributions were first disclosed 153 days late, in an August 10, 2004 letter to staff.

\$7,204 in grassroots lobbying expenses incurred during March of 2004 were due to be reported by ACS on April 10, 2004, and were reported 12 days late, on April 22, 2004.

**Alleged Lobbying-related Telemarketing Expenditures  
by American Heart Association**

- 1.5 On May 13, 2005, staff contacted Cyndi Lewis, Western Regional Advocacy Representative for the Campaign for Tobacco-Free Kids (CFTFK) by telephone. Staff asked Ms. Lewis about the \$23,814 contribution from CFTFK reported on the L-6 Grass Roots Lobbying report filed by the American Heart Association on April 13, 2004. **(See exhibits 18 and 19, Report of Investigation)** Ms. Lewis confirmed that CFTFK made a grant to AHA, but stated that the grant was intended for general-purpose educational outreach activity.
- 1.6 On May 12, 2005, PDC staff contacted Kristen Richmond, Northwest Senior Regional Director of Advocacy for the American Heart Association (AHA) by telephone, to seek additional information concerning the patch-through calls reported on AHA's L-6 report of April 13, 2004. Ms. Richmond stated that AHA's patch-through calls were coordinated by Leigh Pate, a private consultant. She expressed her understanding of the patch-through calls, but suggested that staff contact Leigh Pate for a more accurate description of the calls' format and substance, including sponsor identification.

Regarding the L-6 report filed by AHA on April 13, 2004, Ms. Richmond stated that expenditures were included on that filing if they were made in preparation for the patch-through calls (consulting, list development) or in execution of the calls; she characterized this reporting as erring on the side of caution. She stated that at the time of the earliest expenditures, AHA was not certain whether it would actually undertake any lobbying action, but began preparations in order to lay the groundwork in case the need came up.

- 1.7 In an email received May 13, 2005 **(Exhibit 1, p 1)** Ms. Richmond confirmed the above statements. She went on to state that the process of updating AHA's phone lists was useful not only because it allowed the organization to mobilize its activists in reaction to legislation, but also because it allowed AHA to provide news regarding the organization's work in the legislature. In a second email received May 13, 2005 **(Exhibit 1, p 3)**, she added the following: *"list development...is something that we do to update our system and make sure we have the right addresses, etc. For instance, sometimes we check our system by sending out mailings and deleting files of volunteers whose letters are returned. In the particular development of our list last year, we were just trying to match the names*

*we had in our network, with the districts they were in... Therefore, although I did report it to be thorough, it is clear that there was no need to report it."*

- 1.8 On May 16, 2005, staff contacted Leigh Pate by telephone. Ms. Pate stated that she was an independent consultant hired by the American Heart Association in late 2004, and that she coordinated the patch-through calls sponsored by AHA. She stated that from October to December, 2003 she worked for the American Heart Association on an hourly basis at \$125 per hour; she stated that this work was represented by the \$4,750 expense she billed to AHA in early January, 2004. Following this, she stated that she was paid a \$5,000 monthly fee for two months. She stated that her work from October through December 2003 consisted of going to meetings, and working on grassroots strategy, or determining how to have a network of grassroots AHA activists in place in case the need came up. She stated that this work did not involve plans for a specific grassroots lobbying expenditure; she explained that it would not have made sense to form a concrete plan so far in advance of the legislative session, because there would be no clear picture of what action was needed until the session was already underway. She stated that she did not have records of her hourly work for AHA from October to December, but that the work was not extensive; if there was a peak in your activity during this time, she stated, it would have been during the month of November, 2003.

She stated that the patch-through calls sponsored by AHA were made between January 20 and February 3, 2004. She stated that the vendor used for the calls contacted residents of specific legislative districts, presented the issue to them, and asked if they would like to be patched through to the legislative hotline. She stated that 2,342 people were contacted during this effort, but that as few as five and as many as 25 people were actually put through to their legislator each day. She was not aware of the total number of people patched through to their legislators.

She stated that the phone lists used for this effort were provided by the various health organizations associated with BREATHE, including the American Heart Association, American Cancer Society, and American Lung Association and the Campaign for Tobacco-Free Kids; she was not certain which specific organizations provided phone lists. She was uncertain whether the lists included only past donors to the different organizations, or if they went beyond the donor base to include all volunteers; she stated that in any case, the individuals targeted in the effort were those seen as likely to be interested in contacting their legislators to discuss secondhand smoke. She stated that one script was used for all calls, but that the sponsor of each call was identified according to the list on which the name of the person being contacted appeared—

i.e., a call to a name on the American Heart Association phone list would be identified as having been sponsored by AHA.

She stated that of all the phone lists used in the patch-through effort, only the list from the American Heart Association did not already include information concerning the legislative districts of the individuals listed on it; for this reason, she stated that AHA used Labels & Lists to supply the missing information. She stated that this was a normal expense for AHA to incur, even outside of the patch-through effort.

- 1.9 In an email received May 17, 2005 (**Exhibit 2, pp 1 - 2**) Ms. Pate confirmed the above statements. In addition, she stated that the issue addressed in the patch-through calls was the proposed smoking ban legislation, and clarified that callers had been patched through to the office number of each legislator contacted, rather than the legislative hotline. She specified that the phone lists used for the patch-through effort were those of the American Heart Association, the American Lung Association, and the Campaign for Tobacco-Free Kids; she stated that no list from the American Cancer Society had been used. Finally, she clarified that during the period of her work with the American Heart Association before the 2004 session, various options and combinations of grassroots tactics were discussed, including patch-through calls, but that no decision was made at that time regarding the type or extent of lobbying action to conduct.
- 1.10 Attached to Ms. Pate's May 17, 2005 email was the script of the patch-through calls sponsored by the American Heart Association. (**Exhibit 2, p 3**) The script indicated that the caller presented the issue of the proposed indoor smoking ban to the individual contacted, and asked if they would agree to be put through to their legislator to express support for the proposal. If the individual agreed, the caller offered a brief suggested message to communicate to the official. If the individual declined to be connected, the caller thanked them and ended the call.
- 1.11 Because the patch-through calls sponsored by the American Heart Association were directed to the donors or volunteers of three health organizations, rather than to the general public, expenses for the calls were required to be disclosed on form L-2 as a lobbying-related telemarketing expense. A registered lobbyist of AHA was required to file a form L-2 by February 15, 2004, disclosing \$4,750 in consulting expenses related to the patch-through calls. The expenses were disclosed 58 days late on the L-6 filed on April 13, 2004. \$7,395 in expenses related to the calls incurred during February of 2004 were due to be disclosed on March 15, 2004, and were reported 29 days late, on April 13, 2004. The final

\$11,669 in expenses, incurred during March and April, 2004, were reported timely.

**Alleged Grass Roots Lobbying Expenditures  
by American Lung Association**

- 1.12 The grass roots lobbying expenses reported by the American Lung Association of Washington, valued at \$1,026 over a period of eight months, did not exceed one thousand dollars in any three-month period, or exceed five hundred dollars in any one-month period.

**Alleged Late Reporting of In-kind Contributions  
by the I-890 Breathe Easy Washington Committee**

- 1.13 On May 12, 2005, staff contacted Scott Peterson, a consultant working for the I-890 Breathe Easy Washington Campaign, to seek additional information concerning the in-kind contributions for signature gathering services reported by the committee on September 23, October 12, and October 18, 2004. **(See exhibits 28 – 30, Report of Investigation)** Mr. Peterson confirmed that he coordinated signature gathering for the initiative, and stated that there were other committee staff involved in the process. He stated that I-890 was required to collect approximately 197,000 valid signatures to qualify for the 2004 general election ballot, and that the committee gathered approximately 90,000 to 100,000 signatures. Of the total gathered, he stated that approximately 44,000 were gathered by Washington Initiatives Now, a paid signature gathering firm, and that approximately 20,000 in additional signatures were gathered by a handful of individual volunteers who were highly committed to the success of the initiative, and who coordinated volunteer signature gathering in their communities. As an example of these individuals, he mentioned Christopher Covert-Bowlds of Bellingham. (Mr. Covert-Bowlds is a medical doctor and the sponsor of Initiative 332 to the legislature, another proposed smoking ban.)

Mr. Peterson stated that he provided blank signature petitions to the American Cancer Society, the American Heart Association, and the American Lung Association, but that the completed petitions these organizations returned were not a great part of the remaining signatures that were gathered; he stated that the small packets of completed petitions he received from independent volunteers across the state contributed much more significantly to the committee's effort than the signatures gathered by the three health organizations. He stated that to the best of

his recollection, he did not provide signature petitions to any institution or organization comparable to the three health organizations.

He stated that in most cases, petitions were mailed out in response to requests. In the case of the American Cancer Society, the American Heart Association, and the American Lung Association, he stated that petitions were mailed, but that on one occasion he may have dropped petitions off at the Seattle office of one of the health organizations. On that occasion, he stated that he left the petitions at the front desk and did not speak to anyone in charge of advocacy or political activity. He stated that packets of blank petitions included a sheet of instructions addressing the requirements in state elections law regarding signature petitions; he stated that to the best of his recollection, these instructions did not address the issue of paid versus volunteer signature gatherers, or of in-kind contributions in the form of signature gathering services. He stated that the American Cancer Society, the American Heart Association, and the American Lung Association would have received this sheet of instructions in the packets provided to them, and no other instructions.

In response to staff's question regarding his contact with representatives of the American Cancer Society, the American Heart Association, and the American Lung Association during the campaign, Mr. Peterson stated that he had limited contact with the groups. He stated that he met on one occasion with Nick Federici (representing the American Lung Association), Kristen Richmond (representing the American Heart Association), and David Delvallee (representing the American Cancer Society) to request monetary contributions to his committee. Following this, when it became clear that monetary contributions were not forthcoming, he stated that he met with Michael O'Sullivan, a lobbyist for the American Cancer Society, to see what the health organizations could do to assist his committee, in lieu of financial assistance. He stated that to the best of his recollection, he received no indication from the health organizations of whether they would use paid staff, volunteers, or a paid signature gathering service to collect signatures for his committee.

He stated that the health organizations mailed completed signature petitions to his committee, but that he did not recall seeing a large volume of signatures arrive from any one organization. He stated that he did not receive any written or verbal notification of how signatures had been gathered.

- 1.14 In an email received May 18, 2005 (**Exhibit 3**) Mr. Peterson confirmed the above statements.



Respectfully submitted this 20<sup>th</sup> day of May, 2005.

*T. Perkins*

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Tony Perkins  
Political Finance Specialist

### **ADDENDUM EXHIBIT LIST**

- Exhibit 1**     Emails from Kristen Richmond, received on May 13, 2005.
- Exhibit 2**     Email from Leigh Pate, received on May 17, 2005.
- Exhibit 3**     Email from Scott Peterson, received on May 17, 2005.

### **ADDITIONAL EXHIBITS FROM REPORT OF INVESTIGATION**

(Listed for reference: see main Report of Investigation)

- Exhibit 5**     Results of a public opinion survey conducted by the polling firm Grove Insight.
- Exhibit 6**     BREATHE press release dated December 15, 2003.
- Exhibit 10**    Documentation concerning television advertisements received from David Delvallee, Advocacy Director for the Northwest Division of the American Cancer Society, on April 22, 2004.
- Exhibit 18**    L-6 report received on April 13, 2004 from the American Heart Association.
- Exhibit 19**    Letter received from Kristen Richmond, Regional Director of Advocacy for the American Heart Association, on September 8, 2004.
- Exhibit 28**    C-4 report filed by the Breathe Easy Washington I-890 campaign on September 23, 2004.
- Exhibit 29**    C-4 report filed by the Breathe Easy Washington I-890 campaign on October 12, 2004.
- Exhibit 30**    Amended C-4 report filed by the Breathe Easy Washington I-890 campaign on October 18, 2004.

**Tony Perkins**

**From:** Kristen Richmond [kristen.richmond@heart.org]  
**Sent:** Friday, May 13, 2005 12:00 PM  
**To:** Tony Perkins  
**Subject:** RE: Our conversation of yesterday, May 12, 2005

This captures our conversation. However, remember this was my general understanding of what happened, and Leigh Pate will be able to confirm the specifics. The fact that clean indoor air legislation that would have pushed back protections was discussed in the closing days of the session was a complete surprise to us. However, luckily because of updating our systems etc, we were prepared to react. Again, the updating of the lists etc. is helpful to not only asking our grassroots networkers to react to legislation, it is also beneficial in just letting them know what we as an organization are working on in the legislature. Kristen

Kristen Richmond  
 NW Senior Regional Director of Advocacy  
 American Heart Association  
 Pacific/Mountain Affiliate  
 710 Second Avenue, Suite 900  
 Seattle, WA 98104  
 (206) 834-8628  
 kristen.richmond@heart.org

**From:** Tony Perkins [mailto:tp Perkins@pdc.wa.gov]  
**Sent:** Friday, May 13, 2005 11:50 AM  
**To:** Kristen Richmond  
**Subject:** Our conversation of yesterday, May 12, 2005

Dear Kristen,

Thank you for speaking with me yesterday and answering questions remaining in PDC Case #04-446, Washington BREATHE Alliance. Please reply to this email to confirm my understanding of our conversation.

In our conversation, you stated that Leigh Pate coordinated the patch-through calls reported on the American Heart Association's April 13, 2004 L-6 Grass Roots Lobbying report. You stated that the existing volunteer lists of the American Heart Association, American Cancer Society, and American Lung Association were combined and provided to a vendor located in Virginia, who contacted the volunteers by telephone on two days to ask if they would like to be connected to their legislator. You stated that the calls were made specifically to oppose an emerging attempt to weaken the Clean Indoor Air Act, and that at the time the calls were made, no formal legislation had yet been introduced. Your understanding was that the vendor's callers identified themselves by stating something to this effect: "I represent a coalition of health organizations including the American Heart Association, American Cancer Society, and American Lung Association." You were not certain which health organizations were included in this list, but you believed that the organizations mentioned would have been those with a high level of name recognition, and that the list did not likely include the Center for MultiCultural Health, the Washington Pacific Islander Families Against Substance Abuse, or the Washington BREATHE Alliance. You suggested that I contact Leigh Pate to confirm the substance of the calls, including sponsor identification.

Regarding the L-6 report filed on April 13, 2004, you stated that you included expenditures on that filing if they were made in preparation for the patch-through calls (consulting, list development) or in execution of the calls; you characterized this reporting as erring on the side of caution. You stated that at the time of the earliest expenditures, the American Heart Association was not certain whether it would actually undertake grass roots lobbying, but began preparations in order to lay the groundwork in case the need came up. You stated that when the attempt to weaken the Clean Indoor Air Act began to take shape, the American Heart Association followed through on its preparations to execute the patch-through calls.

Please confirm the above statements, or correct any that does not accurately reflect our conversation. Thanks.

**EXHIBIT**

1 of 3

5/24/2005

Sincerely,

**Tony Perkins**

Political Finance Specialist, PDC  
(360) 586-1042

EXHIBIT <sup>1</sup>

2 of 3

5/24/2005

**Tony Perkins**

**From:** Kristen Richmond [kristen.richmond@heart.org]  
**Sent:** Friday, May 13, 2005 1:50 PM  
**To:** Tony Perkins  
**Subject:** RE: Our conversation of yesterday, May 12, 2005

I found out that the list development was just that, list development. It is something that we do to update our system and make sure we have the right addresses, etc. For instance, sometimes we check our system by sending out mailings and deleting files of volunteers whose letters are returned. In the particular development of our list last year, we were just trying to match the names we had in our network, with the districts they were in. General maintenance. Therefore, although I did report it to be thorough, it is clear that there was no need to report it. Thanks, Kristen

Kristen Richmond  
 NW Senior Regional Director of Advocacy  
 American Heart Association  
 Pacific/Mountain Affiliate  
 710 Second Avenue, Suite 900  
 Seattle, WA 98104  
 (206) 834-8628  
 kristen.richmond@heart.org

**From:** Tony Perkins [mailto:tp Perkins@pdc.wa.gov]  
**Sent:** Friday, May 13, 2005 11:50 AM  
**To:** Kristen Richmond  
**Subject:** Our conversation of yesterday, May 12, 2005

Dear Kristen,

Thank you for speaking with me yesterday and answering questions remaining in PDC Case #04-446, Washington BREATHE Alliance. Please reply to this email to confirm my understanding of our conversation.

In our conversation, you stated that Leigh Pate coordinated the patch-through calls reported on the American Heart Association's April 13, 2004 L-6 Grass Roots Lobbying report. You stated that the existing volunteer lists of the American Heart Association, American Cancer Society, and American Lung Association were combined and provided to a vendor located in Virginia, who contacted the volunteers by telephone on two days to ask if they would like to be connected to their legislator. You stated that the calls were made specifically to oppose an emerging attempt to weaken the Clean Indoor Air Act, and that at the time the calls were made, no formal legislation had yet been introduced. Your understanding was that the vendor's callers identified themselves by stating something to this effect: "I represent a coalition of health organizations including the American Heart Association, American Cancer Society, and American Lung Association." You were not certain which health organizations were included in this list, but you believed that the organizations mentioned would have been those with a high level of name recognition, and that the list did not likely include the Center for MultiCultural Health, the Washington Pacific Islander Families Against Substance Abuse, or the Washington BREATHE Alliance. You suggested that I contact Leigh Pate to confirm the substance of the calls, including sponsor identification.

Regarding the L-6 report filed on April 13, 2004, you stated that you included expenditures on that filing if they were made in preparation for the patch-through calls (consulting, list development) or in execution of the calls; you characterized this reporting as erring on the side of caution. You stated that at the time of the earliest expenditures, the American Heart Association was not certain whether it would actually undertake grass roots lobbying, but began preparations in order to lay the groundwork in case the need came up. You stated that when the attempt to weaken the Clean Indoor Air Act began to take shape, the American Heart Association followed through on its preparations to execute the patch-through calls.

Please confirm the above statements, or correct any that does not accurately reflect our conversation. Thanks.

5/24/2005

EXHIBIT 1

3 of 3

**Tony Perkins**

**From:** Leigh Pate [leigh@seanet.com]  
**Sent:** Tuesday, May 17, 2005 1:09 PM  
**To:** Tony Perkins  
**Subject:** Re: Our Conversation of this Morning, May 16, 2005

I have some clarifications or corrections, and noted them within the statement below in blue and separated.

----- Original Message -----

**From:** Tony Perkins  
**To:** Leigh Pate  
**Sent:** Monday, May 16, 2005 6:07 PM  
**Subject:** Our Conversation of this Morning, May 16, 2005

Dear Leigh,

Thank you for speaking with me this morning and answering questions remaining in PDC Case #04-446, Washington BREATHE Alliance. Please reply to this email to confirm my understanding of our conversation. With your reply, please also include the script of the patch-through calls we discussed.

In our conversation, you stated that patch-through calls sponsored by the American Heart Association (AHA) were made between January 20 and February 3, 2004. You stated that the issue addressed in the initial calls was the proposed smoking ban legislation, but that the focus changed toward the end of the session to oppose an emerging attempt to weaken the Clean Indoor Air Act.

The calls were all done on the proposed smoking ban legislation. When the attempt to weaken the bill came up later in the session, the calls were already down.

You stated that the vendor used for the calls contacted residents of specific legislative districts, presented the issue to them, and asked if they would like to be patched through to the legislative hotline

we patched them through directly to their Olympia office number - I misspoke yesterday when I said hotline.

You stated that 2,342 people were contacted during this effort, but that as few as five and as many as 25 people were eventually put through to their legislator each day. You were not aware of the total number of people patched through to their legislators.

You stated that the phone lists used for this effort were provided by the American Heart Association, American Cancer Society

There were no ACS lists used in these calls,

and American Lung Association; you stated that a list provided by the Campaign for Tobacco-Free Kids

Yes, a CTFK list was used

may have also been used, but you were not certain on this point. You were unsure whether the lists included only past donors to the different organizations, or if they went beyond the donor base to include all volunteers; you stated that in any case, the individuals targeted in the effort were those seen as likely to be interested in contacting their legislators to discuss secondhand smoke. You stated that one script was used for all calls, but that the sponsor of each call was identified according to the list on which the name of the person being contacted appeared—i.e., a call to a name on the American Heart Association phone list would be identified as having been sponsored by AHA.

You stated that of all the phone lists used in the effort, only the list from the American Heart Association did not already include information concerning the legislative districts of the individuals listed on it; for this reason, you stated that AHA used Labels & Lists to supply the missing information. You stated that this was a normal expense for AHA to incur, even outside of the patch-through effort.

You stated that from October to December, 2003 you worked for the American Heart Association on an hourly basis at \$125 per

5/24/2005

**EXHIBIT** <sup>2</sup>

1 of 3

hour; you stated that this work was represented by the \$4,750 expense you invoiced to AHA in early January, 2004. Following this, you stated that you were paid a \$5,000 monthly fee for two months. You stated that your work from October through December 2003 consisted of going to meetings, and working on grassroots strategy—i.e., determining how to have a network of grassroots activists in place in case the need came up. You stated that this work did not involve plans for a specific grassroots lobbying expenditure; you explained that it would not have made sense to form a concrete plan so far in advance of the legislative session, because you would have no idea what action was needed until the session was already underway.

Yes, we did of course discuss various options and combinations of grassroots tactics that were on the table prior to session - including patch calls. However we didn't decide what to execute, when, where or how much until the bill was moving and we saw what was actually needed.

You stated that you did not have records of your hourly work for AHA from October to December, but that the work was not extensive; if there was a peak in your activity during this time, you stated that it would have been during the month of November, 2003.

Please confirm the above statements, or correct any that does not accurately reflect our conversation. Thanks.

Sincerely,

**Tony Perkins**

Political Finance Specialist, PDC  
(360) 586-1042

**EXHIBIT** <sup>2</sup>  
2 of 3

FINAL

Patch through Calls using Landmark Strategies and lists from ALA, AHA and TFK

Hello.

My name is \_\_\_\_\_ and I'm calling on behalf of (Organization) to let you know we have an opportunity to make all indoor public places in Washington smoke free.

The legislature is considering a bill to eliminate second hand smoke in all indoor public spaces, including restaurants. Second hand smoke is not only irritating, it's toxic, and is especially harmful to waitresses and restaurant employees who suffer three times the cancer rates of other employees.

We need your help to make sure Sen \_\_\_\_ knows that his/her Yes vote is very important to you. Can I transfer you to Senator \_\_\_\_'s office to urge them to vote Yes for the statewide smoke free indoor air bill?

If Yes: That's great. I can transfer you to your legislator's office right now. You will be on hold just a moment while I dial the number and then you will be transferred through and you will either get to speak to a legislative staff person to Sen \_\_\_\_ or be connected to her voice mail.

Please tell Senator \_\_\_\_ that you live in his/her district and you want them to vote yes on the bill that bans smoking in all indoor public places statewide. And if you get an answering machine, be sure to leave a message.

Do you feel comfortable making this statement, that you live in the district and would like the Senator to please vote yes to ban smoking in all indoor public places statewide? Thank you and hold on, please ...

If No/Unsure. OK. Thanks for your time. Goodbye.

Code:

Yes and Patched through  
No patch through  
Refused  
hang up  
Do not call  
Wrong Number/Disconnect  
Telco, etc.

Questions or requests for more information can be referred to:

American Lung Association of Washington Carrie Nyssen, 509 969-4799  
American Heart Association of Washington Tom Connell, 1 800 562-6718  
Tobacco Free Kids (refer to either Heart or Lung)



**Tony Perkins**

**From:** D. Scott Peterson [dscottpeterson@earthlink.net]  
**Sent:** Wednesday, May 18, 2005 12:06 PM  
**To:** Tony Perkins  
**Subject:** RE: Our conversation of yesterday, May 12, 2005

Tony . . . any comments or changes to your original message are included in the text below.

Scott

**From:** Tony Perkins [mailto:tperkins@pdc.wa.gov]  
**Sent:** Friday, May 13, 2005 6:03 PM  
**To:** dscottpeterson@earthlink.net  
**Subject:** Our conversation of yesterday, May 12, 2005

Dear Scott,

Thank you for speaking with me yesterday and answering questions regarding PDC Case #04-446, Washington BREATHE Alliance, etc. Please reply to this email to confirm my understanding of our conversation.

In our conversation, you stated that you coordinated signature gathering for the I-890 Breathe Easy Washington Campaign, although there were other committee staff involved in the process. You stated that I-890 was required to collect approximately 197,000 valid signatures to qualify for the 2004 general election ballot, and to the best of your knowledge your committee gathered between 90,000 and 100,000 signatures. Of the total gathered, you stated to the best of your knowledge that approximately 44,000 were gathered by Washington Initiatives Now, a paid signature gathering firm, and that approximately 20,000 in additional signatures were gathered by a handful of individual volunteers who were highly committed to the success of the initiative, and who coordinated volunteer signature gathering in their communities. As an example of these individuals, you mentioned Christopher Covert-Bowlds of Bellingham, a medical doctor and the sponsor of Initiative 332 to the Legislature, another proposed smoking ban. You stated that you provided blank signature petitions to the American Cancer Society, the American Heart Association, and the American Lung Association, but that the completed petitions these organizations returned were not a great part of the remaining signatures that were gathered; you stated that the small packets of completed petitions you received from independent volunteers across the state contributed much more significantly to your effort than the signatures gathered by the three health organizations. You stated that as far as you recall you did not provide signature petitions to any institution or organization comparable to the three health organizations.

You stated that in most cases, petitions were mailed out in response to requests. In the case of the American Cancer Society, the American Heart Association, and the American Lung Association, you stated that petitions were mailed, but that on one occasion you may have dropped petitions off at the Seattle office of one of the health organizations. On that occasion, you stated that you left the petitions at the front desk and did not speak to anyone in charge of advocacy or political activity. You stated that packets of blank petitions included a sheet of instructions addressing the requirements in state elections law regarding signature petitions; you stated that to the best of your knowledge these instructions did not address the issue of paid vs. volunteer signature gatherers, or of in-kind contributions in the form of signature gathering services. You stated that you would verify what these instructions said exactly and fax a copy to the PDC. You stated that the American Cancer Society, the American Heart Association, and the American Lung Association would have received this sheet of instructions in the packets provided to them, and no other instructions.

You stated that you had limited contact with representatives of the American Cancer Society, the American Heart Association, and the American Lung Association during your campaign. You stated that you met on one occasion with Nick Federici (representing the American Lung Association), Kristen Richmond (representing the American Heart Association), and David Delvallee (representing the American Cancer Society) to request monetary contributions to your committee. Following this, when it became clear that monetary contributions were not forthcoming, you stated that you met with Michael O'Sullivan, a lobbyist for the American Cancer Society, to see what the health organizations could do to assist your committee in lieu of financial assistance.

You stated that the health organizations mailed completed signature petitions to your committee, and that you do not recall seeing a large volume of signatures arrive from any one organization. You stated that you did not receive any written or verbal notification that the health organizations had used paid staff to gather signatures. You stated that you recall no communication by you with any of these organizations as to the exact method they would use to distribute petitions or collect the signatures – whether they would use paid staff, or volunteers or paid signature gatherers, etc.

**EXHIBIT 3**

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Please confirm the above statements, or correct any that do not accurately reflect our conversation. Please also provide a copy of the instruction sheet which accompanied the initiative packets; you can fax the instructions sheet to my attention at 360-753-1112. Thank you for your assistance.

Sincerely,

**Tony Perkins**

Political Finance Specialist, PDC  
(360) 586-1042

EXHIBIT <sup>3</sup>  
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